

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 19 CR 50006
vs.)	
)	Judge Philip G. Reinhard
BRENTON WELLS)	

UNITED STATES' SENTENCING MEMORANDUM

Aiming a laser at an aircraft is very dangerous. According to the Federal Aviation Administration, in 2017, it received 6,754 reports of laser strikes on aircraft. www.faa.gov/about/initiatives/lasers/ (last visited November 23, 2019). “This is a 250 percent increase since FAA started tracking laser strikes in 2010.” *Id.* Through outreach, the number of laser strikes decreased in 2018 to 5,663. www.faa.gov/news/updates/?newid=93445 (last visited November 23, 2019). Unfortunately, for the two law enforcement officers flying over Rockford on December 6, 2018, they were part of the 5,663 strikes. *See* Reported Laser Incidents for 2018 at www.faa.gov/about/initiatives/lasers/laws/ (last visited November 23, 2019). For the following reasons, the government recommends that this Court sentence the defendant to 21 months’ imprisonment.

ARGUMENT

The defendant admitted that on December 6, 2018, he possessed a laser pointer and knowingly aimed the beam of the laser pointer at an aircraft flying over Rockford. Two law enforcement agents piloted the aircraft, a helicopter. PSR at ¶ 12. The defendant pointed the beam of his laser pointer at the helicopter for approximately two minutes, continuously following

the helicopter with the laser as the helicopter moved, which made it difficult to navigate the helicopter. *Id.* at 13.

The defendant's crime is very serious. According to laserpointersafety.com:

Another problem is that the beam is much larger at long distances than you might think. Even though the laser projects a small, millimeter-sized dot close up, at longer distances the beam can be many inches across. When the beam hits the windscreen of a cockpit, or the bubble of a helicopter, imperfections in and on the glass spread the light out even more The light is often spread so much that the pilot cannot avoid it Laser light in the pilot's eyes causes glare (inability to see past the light). At higher power levels, it can also cause temporary flashblindness and afterimages (like when you look at a bright camera flash, and cannot see for a many seconds afterwards).

www.laserpointersafety.com/laser-hazards_aircraft/laser-hazards_aircraft.html (last visited November 23, 2019).

The defendant's history and characteristics also warrant a sentence of 21 months' imprisonment. The defendant's criminal history began when the defendant was eighteen years old; it progressively got worse. PSR at ¶ 28. At twenty-three years old, defendant was convicted of theft. PSR at ¶ 29. At twenty-four years old, the defendant was convicted of mob action and driving under the influence of alcohol. PSR at ¶¶ 30 and 31. At thirty-four years old, the defendant was convicted of aggravated robbery and sentenced to probation. PSR at ¶ 33. The defendant's probation was revoked and he was sentenced to imprisonment. *Id.*

While statistically, criminal conduct decreases with age, *See* David P Farrington, *Age and Crime*, CRIME AND JUSTICE, Vol. 7 (1986) ("The relation between age and crime, as seen in official criminal statistics for any given year, is well-known. Typically, the crime rate increases from the minimum age of criminal responsibility to reach a peak in the teenage years; it then declines, at first quickly, but gradually more slowly."), the defendant is the exception. In fact, in his 40s, the defendant went on a crime spree. On May 1, 2014, the defendant committed retail theft in

Machesney Park. PSR at ¶ 35. On May 3, 2014, the defendant committed retail theft in Hoffman Estates. PSR at ¶ 37. On May 31, 2014, the defendant committed retail theft in Algonquin. PSR at ¶ 36. On June 23, 2015, the defendant committed retail theft in Elgin. PSR at ¶ 38. On September 29, 2015, the defendant committed retail theft in Rockton. PSR at ¶ 39. On February 5, 2016, the defendant committed retail theft in Rockford. PSR at ¶ 40. For his thefts in Rockton and Rockford, the defendant was sentenced to probation and drug court, but violated both his conditions of probation and drug court numerous times. Now forty-four years old, the defendant committed the instant offense.

There is nothing to suggest that any prior penalties have deterred the defendant from criminal conduct. It appears that much of his criminal activity in his 40s was due to drug usage, even though the defendant suggests that he has not used drugs since 2016. The defendant's most recent Winnebago County convictions involve numerous violations of drug court and probation in 2017 and 2018 resulting in an unsuccessful termination of defendant's probation. As noted in U.S.S.G. § 5H1.4, "[s]ubstance abuse is highly correlated to an increased propensity to commit crime." *Id.*

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CONCLUSION

The government knows of no reason why this Court should sentence the defendant outside of the advisory Guidelines range. The nature of the offense, the defendant's criminal history, and his history and characteristics all warrant a sentence of 21 months' imprisonment, a term of imprisonment at the high-end of the Guidelines range.

Respectfully submitted,

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CERTIFICATE OF FILING AND SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following document:

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was served on November 26, 2019, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

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